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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 United States of America,  
Plaintiff,  
12  
13 v.  
14 Angel Noel Guevara, et.al.,  
Defendant.  
15  
16

Case No.: CR 08-00730 WHA

**STIPULATION AND PROTECTIVE  
ORDER RE RECORDS OF  
ROBERT MCGRORY**

Courtroom: 9  
Judge: The Honorable William Alsup  
Trial Date: March 7, 2011

17  
18 On or about November 23, 2010, the Alameda County Sheriff's Office's  
19 custodian of records received a subpoena from Defendant Angel Noel Guevara which  
20 requested the confidential and privileged personnel files of Alameda County Sheriff's  
21 Deputy Robert E. McGrory (#204401). The Attachment to the subpoena described six  
22 (6) categories of *Henthorn/Pitchess* materials reflecting, inter alia, complaints by  
23 citizens or other police officers, reprimands and/or disciplinary action related to (1)  
24 fabrication of facts and evidence; (2) racial bias; (3) improper searches or seizures; (4)  
25 improper interrogations; (5) unlawful use of controlled substances or consumption of  
26 alcohol while on duty; and (6) dishonesty.

27 In accordance with this court's "Order Re Defendant Guevara's Sixth Ex Parte  
28 Application for Issuance of Subpoena" filed under seal on October 28, 2010 directing

1 Alameda County Sheriff's Office to produce any responsive documents to the Court for  
2 an *in camera* review, the Alameda County Sheriff's Office custodian of records will  
3 produce personnel records of Deputy Robert McGrory to the Deputy Courtroom Clerk  
4 of the Court by January 8, 2011. In further compliance with this court's order, Alameda  
5 County Sheriff's Office and Defendant Angel Noel Guevara, through their respective  
6 counsel, Beatrice Liu, Deputy County Counsel, and Lupe Martinez and Jennifer  
7 Naegele, agree and stipulate to the following protective order in the event the Court  
8 determines that any documents will be disclosed to the defendant.

9 In order to protect the sensitive and confidential information and records from  
10 unwarranted disclosure, and to protect the privacy rights of Deputy McGrory, it is hereby  
11 stipulated and agreed as follows:

12  
13 **PROTECTIVE ORDER**  
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15 1. The Court shall conduct an *in camera* review of the documents produced by  
16 the Alameda County Sheriff's Office. After completion of such review, if the Court  
17 determines that certain confidential information and documents respecting the  
18 personnel records produced are to be disclosed to defense counsel, such disclosure  
19 shall be subject to this Protective Order.

20 2. The attorneys for Angel Noel Guevara shall personally secure and maintain  
21 the protected documents in their possession to the end that said protected documents  
22 are to be used only for the purposes set forth below and for no other purpose.

23 3. The protected documents shall be used only in preparation for and in the  
24 prosecution or defense of this case, pending completion of the judicial process,  
25 including appeal. The protected documents will remain protected from disclosure after  
26 completion of the judicial process in this matter. All documents, if filed with the Court,  
27 shall be filed under seal absent a court order with notice to all parties. All documents  
28

1 produced pursuant to this Order shall be returned to the court under seal at the  
2 conclusion of these proceedings.

3 4. Protected documents shall not be disseminated publicly. Under no  
4 circumstances shall the confidential peace officer personnel record information and  
5 documents ordered disclosed by this Court be used in any proceeding other than this  
6 action, *United States of America v. Angel Noel Guevara, et al.*, Case No. CR-08-0730-  
7 WHA.

8 5. Protected peace officer personnel record information and documents shall not,  
9 either orally or by writing, be inputted into any file, computer program, or database, or  
10 listed manually in any file, manual, notebook, listing, or other writing as it pertains to law  
11 enforcement personnel, except any computer program or case file, manual, notebook,  
12 listing or other writing maintained specifically for this action, *United States of America v.*  
13 *Angel Noel Guevara, et al.*, Case No. CR-08-0730-WHA.

14 6. The attorneys for the defendant Angel Noel Guevara, including any and all  
15 investigators, paralegal assistants or other consultants or agents hired to assist the  
16 attorneys for the parties in this action, shall at all times maintain the confidentiality of all  
17 peace officer personnel record information and documents ordered disclosed. No one  
18 shall copy or divulge said information, either in writing or orally, to anyone not having a  
19 need to, or access to, said information for any purpose whatsoever.

20 7. At the conclusion of this action, and in order to allow defendant to exhaust his  
21 right to appeal and/or pursue any habeas corpus action, the attorneys for the parties  
22 shall either destroy, or return to the Alameda County Sheriff's Office within one (1) year  
23 after judgment is final, all originals or copies of all confidential peace officer personnel  
24 documents and materials ordered disclosed by this Court, including without limitation,  
25 any delivered by the attorneys for the parties to any third party agent.


26 8. Each person receiving a copy of a protected document shall, before being  
27 given a copy, shall be given a copy of this Protective Order and a compliance  
28 agreement (in the form attached hereto as Exhibit "A") and shall execute the

1 compliance agreement, and return the original of the compliance agreement to the  
2 attorney who gives him/her the copy of the protected document(s). It shall be the  
3 responsibility of the respective attorneys to distribute compliance agreements, and then  
4 collect and maintain custody of the executed originals of the compliance agreements.  
5 At the conclusion of the legal proceedings in this matter, each person who has  
6 received a copy of protected documents shall return all such protected documents to  
7 the attorneys for the party who gave him/her the copy of the protected documents.

8 9. Disobedience of this Protective Order may be treated as a Contempt of Court.

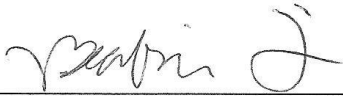
9 **IT IS SO STIPULATED.**

10  
11 Dated: December 13, 2010

  
LUPE MARTINEZ  
JENNIFER NAEGELE  
Attorneys for Defendant Angel Noel  
Guevara

12  
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16 DATED: December 21, 2010

RICHARD E. WINNIE, County Counsel  
in and for the County of Alameda, State  
of California

17  
18  
19 By   
20 Beatrice Liu  
21 Deputy County Counsel

22 Attorneys for County of Alameda

23  
24 **ORDER**

25 Based upon the stipulation of the parties, and good cause appearing, IT IS SO  
26 ORDERED.  
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Dated: January 3, 2011.



The Honorable William H. Alsup  
United States District Judge

**EXHIBIT A**  
**COMPLIANCE AGREEMENT**

I, \_\_\_\_\_, do solemnly swear that I have received a copy of  
and am fully familiar with the terms of the Protective Order in the case *United States of*  
*America v. Angel Noel Guevara, et.al.*, Case No. CR-08-0730 WHA, and hereby agree  
to comply with and be bound by the terms and conditions of said Protective Order  
unless and until modified by further Order of the Court. I hereby consent to the  
jurisdiction of said Court for purposes of enforcing such Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Sign Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number